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OFFICE OF PETITIONS

In re Application of :
Adam Canni, Scott Shields, and :
Clifford Krapfl :
Application No. 10/758,563 : DECISION ON PETITION UNDER
Filed: January 15, 2004 : 37 C.F.R. §1.183
Attorney Docket No. LEAR 0660 R :
Title: OVERHEAD CONSOLE FOR A :
VEHICLE :

This is in response to the petition under 37 C.F.R. §1.183, filed February 12, 2007, requesting the waiver of 37 C.F.R. §1.172(a), to accept a supplemental reissue declaration submitted without the signature of one of the three joint inventors.

The present reissue application was filed on January 15, 2004, without an executed oath or declaration, identifying Adam Canni, Scott Shields, and Clifford Krapfl as joint inventors. On April 21, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, a surcharge for its late filing as well as the surcharge associated with the late submission of the same. This Notice set a two-month period for reply. Consequently, a petition pursuant to Rule §1.47(a) was filed on May 27, 2004, requesting the acceptance of a declaration which was not executed by Messrs. Canni and Krapfl. A decision granting this petition was mailed on August 30, 2004, and letters were sent to each of these non-signing joint inventors.

With the present petition, Petitioner has submitted supplemental reissue declarations which have been executed by Messrs. Canni

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and Shields, and has requested that the present reissue application be accepted without the executed reissue declaration of Mr. Kapfl.

The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

A discussion follows.

Applicable Rules

37 C.F.R. §1.172(a) set forth, *in toto*:

A reissue oath must be signed and sworn to or declaration made by the inventor or inventors except as otherwise provided (see §§ 1.42, 1.43, 1.47), and must be accompanied by the written consent of all assignees, if any, owning an undivided interest in the patent, but a reissue oath may be made and sworn to or declaration made by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent. All assignees consenting to the reissue must establish their ownership interest in the patent by filing in the reissue application a submission in accordance with the provisions of § 3.73(b) of this chapter.

37 C.F.R. §1.183 sets forth, *in toto*:

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

Analysis

In order to submit a grantable petition under 37 C.F.R. §1.183, Petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. *In re Sivertz*, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

Petitioner has established that an extraordinary situation exists, such that justice requires waiver of the rules. Petitioner has provided the last known address of non-signing joint inventor Krapfl, has asserted that this individual cannot be located, and has provided documentation which establishes that


a diligent search was provided for the same. Petitioner has further provided an acceptable supplemental reissue declaration.

Conclusion

The petition under 37 C.F.R. §1.183 is **GRANTED**. 37 C.F.R. §1.172(a) is hereby **WAIVED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received on November 27, 2006 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.¹ All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.


Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).